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WALTER WILHELM LAW GROUP
A Professional Corporation
Riley C. Walter #91839
Danielle J. Bethel #315945
205 East River Park Circle, Ste. 410
Fresno, CA 93720
Telephone: (559) 435-9800
Facsimile: (559) 435-9868
E-mail: rileywalter@w2lg.com

Chapter 9 Counsel

MCCORMICK BARSTOW, LLP
Timothy L. Thompson #133537
Mandy L. Jeffcoach #232313
Nikole E. Cunningham #277976
7647 N. Fresno Street
Fresno, CA 93720
Telephone: (559) 433-1300
Facsimile: (559) 433-2300
E-mail: mandy.jeffcoach@mccormickbarstow.com

District Counsel

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

In re

TULARE LOCAL HEALTHCARE
DISTRICT, dba TULARE
REGIONAL MEDICAL CENTER,

Debtor.

Tax ID #: 94-6002897
Address: 869 N. Cherry St.
Tulare, CA 93274

CASE NO. 17-13797

Chapter 9

DC No.: WW-24

Date: February 15, 2018
Time: 9:30 a.m.
Place: 2500 Tulare Street
Fresno, CA 93721
Courtroom 13
Judge: Honorable René Lastreto II

**MOTION FOR AUTHORITY TO BORROW AND GIVE SECURITY AND TO PROVIDE
ADEQUATE PROTECTION (INSURANCE PREMIUM FINANCE AGREEMENT)**

TO THE HONORABLE JUDGE OF THE UNITED STATES BANKRUPTCY COURT:

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Tulare Local Healthcare District, dba Tulare Regional Medical Center ("Debtor" or "TRMC") hereby files this Motion for Authority to Borrow and Give Security and to Provide Adequate Protection ("Motion") which seeks an order pursuant to 11 U.S.C. §§ 901, 364, and 362, as complimented by FRBP 4001(c), 4001(d), and 6006, authorizing TRMC to enter into a Commercial Premium Finance Agreement ("Agreement") with FIRST Insurance Funding, a Division of Lake Forest Bank & Trust Company, N.A. ("FIRST") by which TRMC would borrow funds to be used to finance insurance premiums as more fully described below, and to give security and provide adequate protection.

This Motion is based on the Notice of Motion, Motion, the Declaration of Sanford Haskins and exhibits thereto, the files, pleadings and orders on file in this Chapter 9 case, and such other and further evidence as made properly before the Court.

TRMC respectfully requests that this Court enter an order pursuant to 11 U.S.C. §§ 901, 364, and 362, as complimented by FRBP 4001(c), 4001(d), and 6006, authorizing TRMC to enter into the Agreement with FIRST and to perform all obligations thereunder, and to provide adequate protection as follows:

1. This case was filed as a Chapter 9 case on September 30, 2017 ("Petition Date").
2. TRMC is a California healthcare district located in Western Tulare County.
3. TRMC is in the business of owning a hospital and other healthcare facilities.
4. As part of its operations, TRMC is required to maintain adequate insurance coverage. Without such coverages TRMC would be forced to cease operations.
5. Accordingly, prior to the Petition Date, TRMC entered into a contract with Affiliated AF Insurance Company by which certain property and casualty coverages are provided ("the Policies").
6. The Policies are essential to TRMC's business operations.

1 7. As of the date of this Motion the annual premiums for 2017/2018 required
2 under the Policies are \$139,087. Of this sum TRMC is prepared to pay \$70,000 which it
3 has the cash to do. The cash is not subject to liens.

4 8. This leaves \$69,087 in premiums required under the Policies.

5 9. In order to secure payment of the remaining premium amounts required,
6 TRMC is prepared to enter into and execute the Agreement with FIRST. A true and
7 correct copy of the Agreement is attached to the Declaration of Sanford Haskins as
8 Exhibit A.

9 10. The basic terms of the Agreement are as follows:

10 A. Lender – FIRST Insurance Funding, a Division of Lake Forest Bank
11 & Trust Company, N.A.

12 B. Total Premiums, Taxes and Fees - \$139,087;

13 C. Down Payment - \$70,000.00;

14 D. Loan amount –\$69,087.00;

15 E. Interest Details –

16 i. Annual Percentage Rate – 6.200%

17 ii. Total interest paid - Approximately \$2,738.96;

18 F. Term of loan – four monthly payments;

19 G. Installment Details –

20 i. \$17,956.49 each;

21 ii. Due on the first of the month;

22 iii. Beginning on January 1, 2018;

23 H. Use of funds – The funds from the loan will be used for insurance
24 premiums on the Policies;

25 I. Security – A first priority security interest in the Policies and any
26 additional premiums required under the Policies, including all return premiums, dividend
27 payments, and loss payments which reduce unearned premium.
28

J. Attorney-In-Fact – FIRST is appointed as attorney-in-fact with irrevocable power to cancel the Policies in the event of default under the Agreement.

K. The loan will not prime any existing security interests.

11. As shown by the Declaration of Sanford Haskins filed concurrently, the cash down payments of \$70,000 on this loan will be made from cash on hand, which is free of liens.

12. Additionally, TRMC and FIRST have agreed that TRMC shall provide FIRST with adequate protection as follows ("Adequate Protection"):

A. TRMC is authorized and directed to make timely payments due under the Agreement and FIRST is authorized to receive and apply such payments to the amounts owed by TRMC to FIRST under the Agreement.

B. If TRMC fails to make any of the payments due under the Agreement as they become due the automatic stay shall automatically lift to enable FIRST and/or third parties, including insurance companies providing the coverage under the Policies, to take all necessary and appropriate actions to cancel the Policies, collect the collateral, and apply such collateral to the indebtedness owed to FIRST by TRMC under the Agreement. In exercising such rights, FIRST and/or third parties shall comply with the notice and other relevant provisions of the Agreement.

13. The terms of the Agreement and the Adequate Protection are commercially fair and reasonable in light of the circumstances including the granting of the security interest(s) described above to FIRST because TRMC is required to maintain adequate insurance coverage and without it would be forced to cease operations and because TRMC has been unable to obtain unsecured credit to fund the Policies.

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1 14. The relief requested by this Motion is warranted and appropriate under the
2 circumstances. TRMC submits that authorization of the Agreement will ensure that it
3 can continue its necessary operations and will not prejudice the legitimate interests of
4 creditors and other parties in interest, including TRMC's secured creditors.

5 15. TRMC requests waiver of BR 6004(g) relating to the 14 day stay.
6 WHEREFORE, the Debtor prays for an order:

- 7 a) Authorizing the Debtor to borrow up to \$69,087.00 from FIRST and to
8 grant the security interests in favor of FIRST described in the Motion;
9 b) Authorizing the Debtor to provide the Adequate Protection described in the
10 Motion; and
11 c) For such other and further relief as is just and proper.
12

13 Dated: January 18, 2018

WALTER WILHELM LAW GROUP
A Professional Corporation

By: 

Danielle J. Bethel,
Attorneys for Debtor, Tulare Local Healthcare
District, dba Tulare Regional Medical Center